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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/605,814

10/29/2003

James Baechle

4092

2813

23699

7590

01/04/2006

CLAUSEN MILLER, P.C
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10S. LASALLE STREET
CHICAGO, IL 60603

EXAMINER

JOHNSON, JERROLD D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,814

Applicant(s)

BAECHLE ET AL.

Examiner

Jerrold Johnson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-7 and 9-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,6,7,9,10,11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jourdain US 3,741,404 in view of Sheffer US 4,638,745 and Tanaka JP7276543.

Re claim 1, Jourdain in Fig. 2 does not disclose paperboard in his system, but does disclose a system suitable for displaying products comprising a plurality of vertically stacked trays 10-30 each with an array of openings, spacer sleeves 3 having hollow interiors, and support posts 2 extending through two or more tray openings to lock the trays together.

Sheffer discloses how display systems may be entirely formed of paperboard.

GB 2232344, Brescia et al US 4,158,336, and Kellog US 4,050,386 all provide extrinsic evidence Sheffer is a display system where previously known shelving/display have been reproduced in a paperboard material to achieve a system having low cost and low weight. This evidence supports the Examiner's conclusion that it would be

Art Unit: 3728

obvious to one of ordinary skill in the art to re-produce the concepts of Jourdain, also well known, in a paper board product to achieve the same benefits as those achieved by Sheffer.

Sheffer further discloses in Fig. 4 the use upwardly extending side panels from the trays, and triangular elements for fitting snugly against the bottom tray sidewalls.

Tanaka specifically discloses how the sleeves and posts set forth in the display system are producible in preformed paperboard.

Accordingly, it would have been obvious to one of ordinary skill in the art to utilize the concepts within the system of Jourdain in a display system constructed of preformed paperboard elements as disclosed by both Sheffer and Tanaka so as to provide a display system with low cost and low weight.

Re claim 2, the spacer sleeves if Jourdain and Sheffer are affixed to the trays.

Re claim 5, Sheffer discloses corrugated board.

Re claim 6, Sheffer and Jourdain both disclose four spacer sleeves per tray,

Re claim 7, neither Sheffer nor Jourdain disclose six spacer sleeves, but to have provided additional sleeves to increase the structural integrity of the system through mere multiplication of parts would have been obvious.

Re claim 9, Sheffer discloses triangular tubes.

Re claim 10, neither Sheffer nor Jourdain disclose decorations, but to provide ornamental features would be considered an obvious choice of aesthetic design.

Re claim 11, neither Sheffer nor Jourdain disclose four trays, but to have provided additional trays to increase the capacity of the system through mere multiplication of parts would have been obvious.

Re claims 13-20, see the rejections above.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jourdain US 3,741,404 in view of Sheffer US 4,638,745 and Tanaka JP7276543.

Jourdain in view of Sheffer and Tanaka does not disclose a top cap or pallet.

Pigott shows how a packaging system comprising a plurality of trays is commonly supported on a pallet for shipping and further includes a top cap so as to protect the items placed on the top tray.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide the system of Jourdain in view of Sheffer and Tanaka with the top cap and pallet of Pigott so as to provide a display and packaging system for suitable for shipping.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheffer in view of Brush US 6,267,255.

Jourdain in view of Sheffer and Tanaka does not disclose an outer wrap.

Outer wraps such as shrink wrap are the norm in packaging systems of this type. Brush discloses such an outer wrap.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide the packaging system of Jourdain in view of Sheffer and Tanaka with an outer wrap such as is disclosed by Brush so as to properly protect items packaged within the system should the system be used during transport.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

Art Unit: 3728

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ 


David T. Fidel
Primary Examiner